

Russ Smith, *pro se*  
PO Box 1880  
Ocean City, NJ 08226  
609-398-3301 (voice/fax)  
smith@help.org

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

Russ Smith, *pro se*

Plaintiff,

v.

Trusted Universal Standards in  
Electronic Transactions, Inc. (d/b/a,  
TRUSTe, Inc.), Microsoft, Inc., Cisco  
Systems, Inc., and Comcast Cable  
Communications, LLC

Defendants

: Civil Action No. 1:09-cv-  
: 04567(RBK)(KMW)

: **PLAINTIFF'S BRIEF IN  
: OPPOSITION TO:**

: **DEFENDANTS' MOTION  
: TO DISMISS**

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**Summary**

1. Plaintiff opposes Defendants' Joint Motion to Dismiss.
2. Plaintiff has filed, simultaneously with this Opposition to Dismiss, a Motion for Leave to File an Amended Complaint with Plaintiff's First Amended Complaint.
3. The Plaintiff's First Amended Complaint provides a detailed description of:
  - a. All contracts and consumer transactions (including offers for the "sale or advertisement" of merchandise) between Plaintiff and each of the Defendants, including TRUSTe, and
  - b. Specifies compensatory, punitive and statutory damages and identifies several ascertainable losses by Plaintiff as a result of each of Defendants' actions, including TRUSTe.

4. Defendants have tried to mislead the Court by asserting that the privacy policies relating to the Microsoft Frontbridge service are not licensed by TRUSTe. However, all Defendants are aware that Microsoft has made representations to the Federal Trade Commission in public comments that TRUSTe does license all Microsoft web sites, and not individual sites. Further, Plaintiff contends that the way Microsoft configures their web site that the TRUSTe-certified privacy policy is a contract between Microsoft, Plaintiff, and TRUSTe. (Exhibits showing Microsoft makes this representation are found in the Plaintiff's First Amended Complaint Exhibit T and are not reproduced here for brevity).



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Ocean City, NJ 08226  
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